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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,370	04/19/2004	David R. Oran	2705-001	4905
73552 7590 07/28/2008 Stolowitz Ford Cowger LLP 621 SW Morrison St Suite 600 Portland, OR 97205				
EXAMINER				
NGUYEN, PHUNG HOANG JOSEPH				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/828,370

Applicant(s)

ORAN, DAVID R.

Examiner

PHUNG-HOANG J. NGUYEN

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 1/15/2007
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7-29 are rejected under 35 U.S.C. 103(a) as being anticipated by Widegren et al (US Pub 2002/0062379) in view of Amin et al (US Pat 7,171,221):

As to claims 1, 10-15, 20 and 25, Widegren teaches a call controller comprising: a processor (i.e., **a suitably programmed digital processor or general purpose computer or one or more digital signal processors (DSPs), par. 0100**) configured to monitor call signaling for a media call (i.e., **a multimedia session, par. 0112**) between a first (**RAN 90 of fig. 21 and/or UE-A 88**) and second endpoint (**Cellular Network 86 fig.21 and/or EA-B 102**) and dynamically determine when to insert (i.e., **implemented, par. 0112**) a media proxy (**SIP proxy including Proxy-Call State Control Function P-CSCF 98 having Policy Control Function 100. If fig. 3: RSVP Proxy**) a call path (i.e., **end-to-end path, par. 0017. Also see step 112 of fig. 22**) associated with the call signaling (**See entire invention, specifically paragraphs 0111-0113 and**

figs. 21-23 in order to appreciate Widegren's teaching on "how the media proxy dynamically being insert into the media session).

Furthermore, Widegren teaches the insertion of the Quality of service or QOS into a media session **(i.e. quality of service and media binding information may be included in signaling used to set up the packet access bearers so that policies are applied to each packet access bearer to enforce the quality of service requested for each media data stream in the session, par. 0069).**

And furthermore as a point of reiteration of the medium containing software, Widegren teaches **"using software functioning in conjunction with a suitable programmed digital microprocessor"** (par. 0100).

As one of the ordinary skilled in the art can appreciate that Widegren teaches the insert of the media proxy into the media session. Widegren does not however disclose the media proxy is inserted according to the network proximity between the first and the second endpoints.

Amin teaches telephone proximity is determined through data collected by the telephones themselves or by other means in communication with the telephones, such as a network, or by a combination of the two. Also the network may establish a positioning node at a mobile switching center (MSC) to calculate proximity between telephones **(col. 2, lines 6 - 32).**

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Amin into the

teachings of Widegren for the purpose of utilizing the proximity as a method to determine the availability of a service based on the distance and thus subsequently cost saving as in case of executing the QOS service only when it is within the defined protocol of distant network. Thus if the service is within a same network there is no need to insert the QOS service.

As to claims 2-3, Widegren, in view of Amin, teaches the call controller wherein the processor is configured to determine whether or not to insert the media proxy into the call path only when the first endpoint is identified as not supporting a quality of service reservation protocol (i.e., **best effort traffic, par. 0004**). Furthermore, Widegren teaches the processor causes the media proxy to conduct a quality of service reservation for the call path (i.e., **end-to-end path, par. 0017. Also see step 112 of fig. 22**) when the first and second endpoints are within a given network proximity range and the processor causes the call path to be established without the media proxy and without conducting a quality of service reservation when the first and second endpoints are outside the given network proximity range (i.e., **IP networks were originally designed to carry "best effort" traffic where the network makes a "best attempt" to deliver a user packet, but does not guarantee that a user packet will arrive at the destination, pars. 0004-0005 and fig. 1. This indicates the absence of the QOS and to be overcome**).

As to claims 7-9, Widegren, in view of Amin, teaches the processor (i.e., a suitably programmed digital processor or general purpose computer or

one or more digital signal processors (DSPs), par. 0100) generates a routing metric value by applying Internet Protocol (IP) addresses for the first and second endpoints to a routing map and uses the routing metric value to determine the network proximity between the first and second endpoints (i.e., **A certain QoS is requested by selecting a set of attribute values that describes the bearer requirement. Parameters differ depending on the type of bearer service requested. See FIG. 11 for detail of the value, col. 0041)**; the processor (i.e., **a suitably programmed digital processor or general purpose computer or one or more digital signal processors (DSPs), par. 0100)** operates as a passive router protocol receiving routing messages and using the received routing messages to update the routing map (i.e., **the current re checked to determine if the changes are allowed, if not, updates rules are obtained, par. 0071)** without ever using the routing map to route IP packets; and the processor (i.e., **a suitably programmed digital processor or general purpose computer or one or more digital signal processors (DSPs), par. 0100)** inserts the media proxy into the call path when the metric value is above a predetermined policy value and does not insert the media proxy into the call path when the metric value is below the predetermined policy value (i.e., **three major components of a policy system include policy rules, which are typically stored in a policy database, policy enforcement, which may be implemented at Policy Enforcement Points (PEP), and Policy Decision Points. The IETF has standardized a protocol for information exchange between PEP's and Policy Decision Points under the term Common Open**

Policy Service (COPS). In general, a policy may be regarded as a collection of rules that result in one or more actions when specific conditions exist, par. 0062).

As to claims 16, 21 and 26, Widegren, in view of Amin, teach inserting the intermediary **(RSVP intermediary router of fig. 2 and 3)** into the media session according to subnet addresses associated with the two endpoints (an ordinary skilled artisan must understand that without the "best effort", it would need QOS to maintain the certain level of communication quality. The RSVP intermediate router would support this function by reserving and distributing the resources as deems appropriate. It is defined by the Integrated Services (IntServ) requiring the subnets and IP routers between the networks **(par. 0009).**

As to claims 17, 22 and 27, Widegren teaches identifying a range of subnet addresses; and inserting the intermediary into the media session when the subnet addresses associated with the two endpoints are within the identified subnet address range **(Fig. 2 shows an end-to-end integrated service between the hosts par. 0011-0012. This implicates the RSVP works within the subnet address range).**

As to claims 18, 23 and 28, Widegren teaches a method, means and software **(i.e., a suitably programmed digital processor or general purpose computer or one or more digital signal processors (DSPs), par. 0100)** including inserting the intermediary into the media session according to a routing metric associated with the two endpoints **(as appreciated by the ordinary skilled artisans that RSVP intermediary does not transport data. It is rather**

a, Internet control protocol or routing protocol between the two endpoints of communication).

As to claims 19, 24 and 29, Widegren teaches method, means and software medium (i.e., **a suitably programmed digital processor or general purpose computer or one or more digital signal processors (DSPs), par. 0100**) including: passively listening for routing messages sent over the packet switched network; using the routing messages to update a routing map; using an Internet Protocol (IP) address for a first one of the endpoints as a local IP address associated with the routing map (**as appreciated by the ordinary skilled artisans that RSVP intermediary does not transport data. It is rather a, Internet control protocol or routing protocol between the two endpoints of communication**); generating the routing metric associated with a shortest path between the first and second endpoints by applying an IP address for a second one of the endpoints to the routing map (**the QoS architecture to be used in the UMTS level, where the list of QoS attributes applicable to UMTS Bearer Service and the Radio Access Bearer Service are specified along with appropriate mapping rules. TS23.060 specifies the general mechanisms used by data packet connectivity services in the UMTS level, which includes the General Packet Radio Service (GPRS) in GSM and UMTS, par. 0024**); and; andting the QoS intermediary into the media path according to the generated routing metric (**See entire invention, specifically paragraphs 0111-0113 and figs. 21-23 in order to appreciate Widegren's**

teaching on "how the media proxy dynamically being insert into the media session).

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being anticipated by Widegren et al (US Pub 2002/0062379) in view of Amin et al (US Pat 7,171,221) further in view of Walrand et al (US Pat 6,674,760).

As to claims 4-6, Widegren, in view of Amin who teaches network proximity, teaches inserting the media proxy (if fig. 21 is used: **Proxy-Call State Control Function P-CSCF 98 having Policy Control Function 100. If fig. 3: RSVP Proxy**) into the call path (i.e., **end-to-end path, par. 0017. Also see step 112 of fig. 22**). Widegren also teaches the "best effort" as a way to confirm that there is an absence of QOS when it is in the same subnet or network or close proximity.

Widegren does not teach inserting media proxy into the call path by applying Internet Protocol (IP) addresses for the first and second endpoints to a subnet mask; furthermore, Widegren does not teach the processor requests the subnet mask from an IP address assignment server. And furthermore, Widegren does not teach the processor receives the subnet mask in the monitored call signaling, the processor not inserting the media proxy into the call path when the first and second endpoints have a same subnet address and inserting the media

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proxy into the media path when the first and second endpoints do not have the same subnet address.

Walrant identifies, via figs. 1-3, identifies there are several subnets (102, 104 and 106). Then Walrant discloses a system and method to implement end-to-end QoS for connections in IP-based networks, even when the communications are between different subnetworks (**col. 2, lines 20-30; Here, the implication does not exclude the fact that the media proxy is insert into the call path regardless it is the same subnets or different subnets. As the claim limitation indicates not to add the proxy when it is the same subnet, as seen in claims 2-3, Widegren has explained from the "best effort" standpoint which indicates the absence of QOS).**

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Walgrant into the teachings of Widegren, in view of Amin, for the purpose of adding a step or two to insert the proxy based on the different subnet and not to insert the proxy when it is the subnet. The purpose is an increase in cost saving and great ease of network management.

INQUIRY

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUNG-HOANG J. NGUYEN whose telephone number is (571)270-1949. The examiner can normally be reached on Monday to Thursday, 8:30AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571 272 7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

July 22, 2008

/Phung-Hoang J Nguyen/
Examiner, Art Unit 2614

/CURTIS KUNTZ/
Supervisory Patent Examiner, Art Unit 2614